Index

ACCURACY AND PRECISION OF TEST

Closing argument, 11:2

ACQUITTAL

Motion for judgment of

Generally, 9:1 to 9:4

For detailed treatment see index heading JUDGMENT OF ACQUITTAL, MOTION FOR

ADMINISTRATIVE OFFENSES FOR DUI

Generally, 2:1 to 2:4

Alcohol restrictions under 21, 2:3

Commercial drivers' licenses, 2:4

Differences between § 21-902 and § 16-205.1, 2:2

Implied consent law, 2:1, 2:2

Under 21, alcohol restrictions, 2:3

ADMINISTRATIVE PER SE HEARINGS

See index heading implied consent and administrative per se hearings

ADVICE OF RIGHTS

Direct examination of state's witnesses, 7:41, 7:45

Form DR-15, App. C3

ADVISING THE CLIENT

Initial client contact and consultation, 3:5

AFFIRMATIVE DEFENSES

Defense cases, 10:3 to 10:9

ALCOHOL INFLUENCE REPORT

Form, App. C6

ALCOHOL TESTING PROGRAM LOG

Form, App. C9

ALIBI

Implied consent and administrative per se hearings, 4:38

ALJ, DISCRETION OF

Implied consent and administrative per se hearings, 4:50

ALMOST CAUSED AN ACCIDENT

Direct examination of state's witnesses, 7:7

ANONYMOUS TIP

Direct examination of state's witnesses, 7:14

APPEALS

Generally, 13:1 to 13:10

Bond or undertaking, 12:13

Charging documents, 13:7

Convictions at MVA, consequences of, 14:13, 14:14

De novo appeals, circuit court procedures, generally, 13:3 to 13:9

Discovery on appeal, 13:4

Federal DUIs, 15:12

Filing the appeal, 13:1

Further direct appeals, 13:2

Implied consent. See index heading implied consent and administrative per se hearings

Jury trials, 13:8

Motions, 13:6

Pretrial conference, 13:5

Procedures in circuit court for de novo appeals, generally, 13:3 to 13:9

On the record appeals, 13:10

Remand, sentencing after, 13:10

Sentencing, 12:13, 13:9, 13:10

ARMED FORCES

See index heading MILITARY

ARRESTING OFFICER

Cross-examination, 8:10

Direct examination of state's witnesses, 7:1

ARRESTS

Direct examination. See index heading direct examination of state's witnesses

Federal DUIs, 15:4

ASSAULT

Offenses related to drunk driving, 1:18

ASSESSING THE CASE

Defense cases, 10:1

ASSIMILATIVE CRIMES ACT

Federal DUIs, 15:2

ATTORNEY-CLIENT RELATIONSHIP

Initial client contact and consultation, 3:1 to 3:6

AUDIO RECORDINGS

Evidentiary issues, 7:65

AVIATION AND AIRPORTS

Pilots, collateral consequences of DUI, 16:6

BEGINNING OF TRIAL

Generally, **6:1 to 6:3**

Electing a jury trial, **6:1**

Jury trial, election of, 6:1

Opening statement, 6:3

BEGINNING OF TRIAL—Cont'd

Setting the theme, **6:3** Theme, setting the, **6:3**

Voir dire, 6:2

Waiving jury trial, 6:1

BLOOD AND BLOOD TESTS

Direct examination. See index heading direct examination of state's witnesses

Expert witnesses, 7:64

Federal DUIs, 15:10

Form, blood test result and supporting certifications, App. C11

BRADY DISCOVERY

Preliminary (pretrial) motions, 5:8

BRAKE LIGHT

Direct examination of state's witnesses, 7:9

BREATH AND BREATH TESTS

Cross-examination, 8:12

Direct examination. See index heading direct examination of state's witnesses

Federal DUIs, 15:10

Implied consent and administrative per se hearings, 4:21, 4:25, 4:30, 4:31

Operator log, form, App. C10

Preliminary breath test, form, App. C2

CANADA

Inadmissibility to Canada, collateral consequences of DUI, 16:2

CASPER DISCOVERY

Preliminary (pretrial) motions, 5:9

CERTIFICATES AND CERTIFICATION

Forms

Blood test result and supporting certifications, App. C11

Officer's certification and order of suspension, App. C5

Implied consent and administrative per se hearings, 4:9, 4:17

CHANGE OF MIND

Implied consent and administrative per se hearings, 4:32

CHARGING DOCUMENTS

Appeals, 13:7

Federal DUIs, 15:5

CHEMICAL TEST FOR ALCOHOL UNIT (CTAU)

Preliminary (pretrial) motions, 5:3

CHILDREN OR MINORS

Juvenile DUIs. See index heading Juvenile DUIs

Offenses related to drunk driving, minors in the car, 1:14

CIRCUIT COURT

Implied consent and administrative per se hearings, 4:55

CIRCUIT COURT—Cont'd

Preliminary (pretrial) motions, 5:28

CIRCUMSTANTIAL EVIDENCE

Judgment of acquittal, motion for, 9:2

CITATION

E citation, form, App. C1(B)

Maryland uniform citation, form, App. C1(A)

CLEANING UP EXTRANEOUS CHARGES

Judgment of acquittal, motion for, 9:4

CLOSING ARGUMENT

Generally, 11:1 to 11:10

Accuracy and precision of test, reasonable doubt as to, 11:2

Approaches to closing before a jury, 11:10

Due process, 11:6

Duress, defense of, 11:5

Entrapment, 11:6

Factual defenses, 11:1, 11:2

Impairment only and not DUI, proof of, 11:7

Inference against state for failure to follow required procedures, 11:3

Influence or impairment, reasonable doubt as to, 11:1

Insufficiency of proof, 11:8

Jurisdiction, insufficient proof of, 11:4

Jury, generally, **11:9, 11:11**

Mixed factual and legal defenses, 11:3 to 11:8

Necessity, defense of, 11:5

Outrageous governmental conduct, 11:6

Venue, insufficient proof of, 11:4

CODE OF FEDERAL PROCEDURE

Federal DUIs, 15:3

COERCION OR DURESS

Closing argument, defense of duress, 11:5

Implied consent and administrative per se hearings, 4:33

COLLATERAL CONSEQUENCES OF DUI

Generally, 16:1 to 16:6

Canada, inadmissibility to, 16:2

Immigration consequences, 16:3

Military personnel, consequences to, 16:5

Pilots, consequences to, 16:6

Security clearances, 16:4

COLLATERAL ESTOPPEL

Implied consent and administrative per se hearings, 4:8

Preliminary (pretrial) motions, 5:18

COMMERCIAL DRIVERS' LICENSE (CDL) DRIVERS

Administrative offenses for DUI, 2:4

Convictions at MVA, consequences of, 14:5, 14:17

Implied consent and administrative per se hearings. See index heading IMPLIED CONSENT AND ADMINISTRATIVE PER SE HEARINGS

COMPUTER SOURCE CODE

Preliminary (pretrial) motions, 5:4

CONFRONTATION RIGHT

Direct examination of state's witnesses, 7:55, 7:56

CONSENT

Implied consent. See index heading implied consent and administrative per se hearings

CONSTITUTIONAL RIGHTS

Sentencing, 12:11

CONSUMPTION, EVIDENCE OF

Implied consent and administrative per se hearings, 4:14

CONTINUANCE, MOTION FOR

Preliminary (pretrial) motions, 5:14

CONTINUED DETENTION (SECOND STOP)

Direct examination of state's witnesses, 7:24

CONTROLLED DANGEROUS SUBSTANCES

Defense cases, 10:8

Driving while impaired by controlled dangerous substances, 1:5

Implied consent and administrative per se hearings, 4:14

CONVICTIONS AT MVA, CONSEQUENCES OF

Generally, 14:1 to 14:20

ALJ decisions, enforcement, 14:20

Appeals, 14:13, 14:14

Commercial drivers license (CDL) drivers, 14:5, 14:17

Driver License Compact issues, 14:18

Driving record issues, 14:19

Expungement, 14:19

Fatal cases, 14:7

Federal convictions for DUI and DWI, 14:3

Hearings, 14:9 to 14:12

Homicide, 14:8

Mandamus, 14:20

Maryland convictions for DUI and DWI, 14:1

Medical advisory board, 14:16

Mitigation, 14:11

Non DUI or DWI offenses, convictions for, 14:6

Notice, 14:9

Out-of-state convictions for DUI and DWI, 14:4

Points revocation for offenses other than DUI, 14:6

CONVICTIONS AT MVA, CONSEQUENCES OF-Cont'd

Possible sanctions, 14:12

Procedure for hearing, 14:10

Reinstatement, 14:15 to 14:18

Sanctions, generally, 14:1 to 14:5, 14:12

Stays, 14:14

Suspension for offenses other than DUI, 14:6

Under age 21 drivers, convictions of, 14:2

CORPUS DELICTI, CORROBORATION OF

Direct examination of state's witnesses, 7:35

Judgment of acquittal, motion for, 9:3

COURT OF APPEALS

Implied consent and administrative per se hearings, 4:56

CRIMINAL DRUNK AND DRUGGED DRIVING OFFENSES

Generally, 1:2 to 1:8

Driving under influence and while impaired by alcohol, 1:2

Driving under influence of alcohol per se, 1:3

Driving while impaired by controlled dangerous substances, 1:5

Driving while impaired by drugs or drugs and alcohol, 1:4

Related offenses. See index heading offenses related to drunk driving

CRITICAL 30 DAYS AFTER ARREST

Implied consent and administrative per se hearings, 4:2

CROSS-EXAMINATION

Generally, 8:1 to 8:14

Arresting officer, 8:10

Breath test technician, cross-exam of, 8:12

Common sense cross, 8:3

Denial of NHTSA training manual, 8:11

Drug recognition expert, cross-exam of, 8:14

Duties of lawyers, 8:7

Gurus of, 8:2

Implied consent and administrative per se hearings, 4:26

Intoximeter technician, preparing cross-exam of, 8:9

Jencks discovery, 8:8

Larry Pozner, 8:2

Length, 8:6

Maximizing prior inconsistent statements, 8:4

NHTSA training manual, denial of, 8:11

Preparing cross-examination of state's witnesses, 8:8, 8:9

Purpose of, 8:1

Relevant Maryland law, 8:6, 8:7

Roger Dodd, 8:2

Scope, **8:6**

State's expert, cross-exam of, 8:13

State's witnesses, generally, 8:10 to 8:14

CROSS-EXAMINATION—Cont'd

Theory and techniques, generally, **8:1 to 8:5** Unresponsive witness, **8:5**

DEFECTIVE VEHICLE

Defense cases, 10:9

DEFENSE CASES

Generally, 10:1 to 10:11

Affirmative defenses, generally, 10:3 to 10:9

Assessing the case, 10:1

Controlled dangerous substances, 10:8

Defective vehicle, 10:9

Defendant's testimony, 10:2

Drinking history, 10:6

Drugs, 10:8

Expert testimony, 10:10, 10:11

Favorable test result, 10:5

Independent alcohol test, 10:6

Medical defenses, 10:7

Observations of others, 10:3

Specific experts, 10:11

Strategic considerations, 10:1, 10:2

DEFINITIONS

Drunk driving, 1:1

DELINQUENCY

Juvenile DUIs. See index heading JUVENILE DUIS

DENIAL

Implied consent and administrative per se hearings, **4:31** NHTSA training manual, denial on cross-examination, **8:11**

DE NOVO APPEALS

Appeals, 13:3 to 13:9

DESTRUCTION OF EVIDENCE

Preliminary (pretrial) motions, 5:11

DETENTION

Implied consent and administrative per se hearings, 4:11

DIRECT EXAMINATION OF STATE'S WITNESSES

Generally, 7:1 to 7:65

Accident almost caused, initial contact, 7:7

Administration of standardized field sobriety tests, 7:26

Advice of rights regarding breath or blood tests, 7:41, 7:45

Anonymous tip, initial contact, 7:14

Arrest, generally, 7:37 to 7:40

Arresting officer, 7:1

Audio recordings, 7:65

DIRECT EXAMINATION OF STATE'S WITNESSES—Cont'd

Blood and blood tests

Generally, 7:40

Evidence. See "Breath or blood test evidence" under this heading

Technician. See "Breath or blood technician" under this heading

Brake light out, initial contact, 7:9

Breath or blood technician

Generally, 7:47 to 7:58

Blood testing in general, 7:50

Breath testing in general, 7:48

Confrontation; Melendez-Diaz and Bullcoming and beyond, 7:56

Hospital blood test, 7:57

Intox EC/IR II, 7:49

Specific requirements for the blood test, 7:53

Specific requirements regarding the breath test, 7:52

Statutory confrontation right to demand test technicians, 7:55

Statutory requirements for admission, 7:51

Two hours of apprehension, 7:54

Voir dire the witness, 7:58

Breath or blood test evidence

Generally, 7:41 to 7:46

Advice of rights, 7:41, 7:45

Independent test, right to, 7:44, 7:45

Interference by state with defendant's right to independent test, 7:46

Refusal to take test, 7:43

Right to counsel, 7:42

Warrant, need for, 7:40

Confrontation right, 7:55, 7:56

Continued detention (second stop), 7:24

Corpus delicti, corroboration of, 7:35

Corroboration of corpus delicti, 7:35

Discovery objections, 7:3

Entry into home, initial contact, 7:17

Equipment violations, initial contact, 7:8

Erroneous records, stop or arrest based on, 7:12

Evidence

Breath or blood tests. See "Breath or blood test evidence" under this heading

Objections, 7:2

Exiting the car, investigation, 7:24

Expert witnesses

Generally, 7:59 to 7:64

For detailed treatment see index heading EXPERT WITNESSES

Field sobriety tests, generally, 7:25 to 7:35

Home entry, initial contact, 7:17

Horizontal gaze nystagmus, 7:28

Hospital blood test, 7:57

Illegal lane changing, initial contact, 7:6

Independent test, right to, 7:44, 7:45

DIRECT EXAMINATION OF STATE'S WITNESSES—Cont'd

Initial contact, generally, 7:4 to 7:22

Interference by state with defendant's right to independent test, 7:46

Intox EC/IR II, 7:49

Investigation, generally, 7:24 to 7:36

Jurisdiction of officer, 7:18

Lane changing, initial contact, 7:6

Marijuana, odor of, 7:23

Maryland law on field tests, 7:28 to 7:35

Miranda v Arizona, 7:32

Mistake of law by officer, 7:21

Objections, 7:2, 7:3, 7:31

Observations of officer at scene, 7:36

Odor of alcohol, 7:15, 7:38

Odor of marijuana, 7:23

One-leg stand, 7:29

Opinion of officer at scene, 7:36

Preliminary breath test, 7:30

Pretextual stops, 7:19

Probable cause for arrest, 7:37

Refusal to take test, **7:34, 7:43**

Right to counsel, 7:42

Roadblocks, initial contact, 7:16

Search incident to arrest, 7:39

"Secondary action," traffic offenses that may only be enforced as, 7:20

Signal violations, initial contact, 7:11

Speeding, initial contact, 7:5

Standardized field sobriety tests, 7:25 to 7:27

Statutory confrontation right to demand test technicians, 7:55

Statutory requirements for admission, 7:51

Stop, in general, 7:4

Suspended license, driving with, 7:13

Tinted windows, initial stop, 7:10

Two hours of apprehension, 7:54

US versus Horn, 7:27

Video recordings, 7:65

Voir dire, 7:58

Voluntariness, 7:33

Walk-and-turn, 7:29

Window of car, initial stop, 7:10, 7:22

DISCOVERY

Appeals, 13:4

Direct examination of state's witnesses, 7:3

Federal DUIs, 15:6

Implied consent and administrative per se hearings, 4:3

Pretrial motions. See index heading Preliminary (Pretrial) MOTIONS

DISCRETION OF ALJ

Implied consent and administrative per se hearings, 4:50

DISJUNCTIVELY

Preliminary (pretrial) motions, 5:23

DISTRICT COURT

Preliminary (pretrial) motions, 5:27

DOUBLE JEOPARDY

Pre trial motions. See index heading PRELIMINARY (PRETRIAL) MOTIONS

DRINKING HISTORY

Defense cases, 10:6

DRIVER LICENSE COMPACT ISSUES

Convictions at MVA, consequences of, 14:18

DRIVING PRIVILEGES

Implied consent and administrative per se hearings, 4:5

DRIVING RECORD ISSUES

Convictions at MVA, consequences of, 14:19

DRIVING UNDER INFLUENCE AND WHILE IMPAIRED BY ALCOHOL

Criminal drunk and drugged driving offenses, 1:2

DRIVING UNDER INFLUENCE OF ALCOHOL PER SE

Criminal drunk and drugged driving offenses, 1:3

DRIVING WHILE IMPAIRED BY CONTROLLED DANGEROUS SUBSTANCES

Criminal drunk and drugged driving offenses, 1:5

DRIVING WHILE IMPAIRED BY DRUGS OR DRUGS AND ALCOHOL

Criminal drunk and drugged driving offenses, 1:4

DRUG RECOGNITION EXPERTS

Cross-examination, 8:14

Expert witnesses, 7:63

Implied consent and administrative per se hearings, 4:41

DUE PROCESS

Closing argument, 11:6

DUI PER SE

Offenses related to drunk driving, 1:12, 1:13

DUPLICITY

Preliminary (pretrial) motions, 5:23

DURESS

See index heading coercion or duress

EDUCATION

DUI education and weekend program policy clarification, App. C14

ELECTING A JURY TRIAL

Beginning of trial, **6:1**

ELUDING

Offenses related to drunk driving, 1:16

EMPLOYMENT

Ignition interlock employer exclusion request instructions, App. C13

ENHANCEMENTS

Sentencing, 1:9, 1:10, 12:5, 12:6

ENTRAPMENT

Closing argument, 11:6

ENTRY INTO HOME

Direct examination of state's witnesses, 7:17

EQUIPMENT VIOLATIONS

Direct examination of state's witnesses, 7:8

ERRONEOUS RECORDS

Direct examination of state's witnesses, 7:12

ETHICAL CONSIDERATIONS

Sentencing, 12:8

EVIDENCE

Circumstantial evidence, 9:2

Destruction of evidence, 5:11

Direct examination. See index heading DIRECT EXAMINATION OF STATE'S WITNESSES

Hearsay. See index heading HEARSAY

Implied consent and administrative per se hearings, 4:14

Sentencing, **12:7** to **12:10**

EXITING THE CAR

Direct examination of state's witnesses, 7:24

EXPERT WITNESSES

Generally, 7:59 to 7:64

Blood tests showing presence of drug, direct examination, 7:64

Defense cases, 10:10, 10:11

Direct examination, generally, 7:59 to 7:64

Drug recognition experts, direct examination, 7:63

Maryland Rule 5-702, 7:60

Maryland Rule 5-703, 7:61

Retrograde extrapolation, direct examination, 7:62

State's expert, direct examination, 7:59

EXPUNGEMENT

Convictions at MVA, consequences of, 14:19

Sentencing, 12:14

FATAL CASES

Convictions at MVA, consequences of, 14:7

FAVORABLE TEST RESULT

Defense cases, 10:5

FEDERAL DUIs

Generally, **15:1 to 15:13**

Appeal, 15:12

Arrest procedure, 15:4

Assimilative Crimes Act, offenses charged under, 15:2

Breath or blood test evidence, 15:10

Charging documents, 15:5

Code of Federal Procedure, offenses charged under, 15:3

Consequences of convictions at MVA, 14:3

Discovery, 15:6

Effect of federal convictions at MVA, 15:13

Field sobriety evidence, 15:9

Form of appeal, 15:12

Jurisdiction, 15:1

Military bases, offenses occurring in, 15:2

National Park Service, offenses occurring on property under jurisdiction of, 15:3

Pretrial motions, 15:7

Procedural differences between state court and federal court, generally, 15:4 to 15:13

Sentencing, 15:11

Timing of appeal, 15:12

Trial, 15:8

FEDERAL JURISDICTION

Implied consent and administrative per se hearings, 4:22

FIELD SOBRIETY TESTS

Direct examination. See index heading DIRECT EXAMINATION OF STATE'S WITNESSES Federal DUIs, 15:9

FILING

Appeals, 13:1

FIRST PHONE CALL AFTER ARREST

Initial client contact and consultation, 3:2

FLEEING AND ELUDING

Offenses related to drunk driving, 1:16

FORM OF APPEAL

Federal DUIs, 15:12

FORMS

Advice of rights, form DR-15, App. C3

Alcohol influence report, App. C6

Alcohol restriction form, App. C12

Alcohol testing program log, App. C9

FORMS—Cont'd

Blood test result and supporting certifications, App. C11

Breath test operator log, App. C10

EC-IR and alcohol reference solution approval letters, App. C7

Education, DUI education and weekend program policy clarification, App. C14

Ignition interlock employer exclusion request instructions, App. C13

IntoxNet report, App. C8

Maryland uniform citation, App. C1(A)

Officer's certification and order of suspension, App. C5

Preliminary breath test, App. C2

Result of test for alcohol concentration, App. C4

FOUR HOURS OF APPREHENSION

Implied consent and administrative per se hearings, 4:40

FOURTH AMENDMENT

Implied consent and administrative per se hearings, 4:10

GURUS

Cross-examination, 8:2

HEARINGS

Convictions at MVA, consequences of, 14:9 to 14:12

Implied consent. See index heading implied consent and administrative per se hearings

HEARSAY

Implied consent and administrative per se hearings, 4:26

HIGHWAYS

Implied consent and administrative per se hearings, 4:15

HIT AND RUN

Offenses related to drunk driving, 1:15

HOME ENTRY

Direct examination of state's witnesses, 7:17

HOMICIDE

Convictions at MVA, consequences of, **14:8** Offenses related to drunk driving, **1:12**

HORIZONTAL GAZE NYSTAGMUS

Direct examination of state's witnesses, 7:28

HOSPITAL BLOOD TEST

Direct examination of state's witnesses, 7:57

IGNITION INTERLOCK SYSTEM

Employer exclusion request instructions, **App. C13** Implied consent and administrative per se hearings, **4:45**

ILLEGAL LANE CHANGING

Direct examination of state's witnesses, 7:6

IMMIGRATION

Collateral consequences of DUI, 16:3

IMPAIRMENT

Closing argument, 11:1

IMPAIRMENT ONLY

Closing argument, 11:7

IMPLIED CONSENT AND ADMINISTRATIVE PER SE HEARINGS

Generally, 4:1 to 4:56

Administrative offenses for DUI, 2:1, 2:2

Advised of sanctions, 4:18

Alcohol consumption, evidence of, 4:14

Alcohol restriction, driving in violation of

Court- or MVA-ordered alcohol restriction, 4:52

Medical Advisory Board, 4:53

Under 21 driver, **4:51**

Alibi, 4:38

ALJ, discretion of, 4:50

Appeals

Circuit court from OAH, 4:55

Petition for writ of certiorari to Court of Appeals, 4:56

Breath and breath tests, 4:21, 4:25, 4:30, 4:31

Certificates and certification, 4:9, 4:17

Change of mind by driver within the limitation period, 4:32

Circuit court, appeal from OAH, 4:55

Coercing of a decision by officer, 4:33

Collateral estoppel, 4:8

Commercial driver's license

All hearings, **4:42**

Refusals, 4:43

Consumption, evidence of, 4:14

Controlled substance consumption, evidence of, 4:14

Court of Appeals, petition for writ of certiorari to, 4:56

Court ordered alcohol restriction, 4:52

Critical 30 days after arrest, 4:2

Cross-examination of hearsay witness, need for subpoena for, 4:26

Denial of driver's request to confer with counsel, 4:31

Detention, 4:11

Discovery, 4:3

Discretion of ALJ, 4:50

Disposition issues

Generally, 4:44 to 4:50

ALJ, discretion of, 4:50

Discretion of ALJ, 4:50

Ignition interlock system program, 4:45

Medical Advisory Board, 4:49

Mitigation evidence, 4:44

IMPLIED CONSENT AND ADMINISTRATIVE PER SE HEARINGS—Cont'd

Disposition issues—Cont'd

MVA ordered alcohol restriction, 4:48

Who is eligible for ignition interlock, **4:46**

Dispute as to statutory or jurisdictional elements, generally, 4:27 to 4:38

Drinks consumed by driver after accident, 4:34

Driving, **4:13**

Driving privileges before hearing, failure to provide licensee with, 4:5

Drug consumption, evidence of, 4:14

Drug recognition expert, officer requesting test not qualified as, 4:41

Evidence of alcohol, drug or controlled substance consumption, 4:14

Failure to advise the licensee of the sanctions that shall be imposed, 4:29

Failure to follow regulation, 4:21

Failure to provide licensee with driving privileges before hearing, 4:5

Federal jurisdiction, **4:22**

Four hours of apprehension, test not offered within, 4:40

Fourth amendment applicability, 4:10

Fully advised of sanctions, 4:18

Handling implied consent and administrative per se hearings in general, 4:1 to 4:4

Hearsay witness, need for subpoena for, 4:26

Highway, requirement of, 4:15

Ignition interlock system program, 4:45

Jurisdiction of officer, 4:16

Margin of error, tolerance, and uncertainty, 4:23

Medical Advisory Board, 4:49, 4:53

Miranda confusion, 4:36

Misleading advice given by officer, 4:33

Mitigation evidence, 4:44

MVA

Alcohol restriction ordered by, 4:48, 4:52

Records of, 4:54

Non refusal of test by driver, 4:28

Notice requirements, 4:6

Office of Administrative Hearings, 4:1

Officer's sworn certificate lacking in material elements, 4:9

Petition for writ of certiorari to Court of Appeals, 4:56

Police department authorized to request blood tests, officer requesting test not member of. **4:41**

Private property used by public, requirement of, 4:15

Procedural issues, generally, 4:4 to 4:25

Reasonable grounds, 4:12

Records, 4:54

Refusal of test

Blood test for drugs, generally, 4:39 to 4:41

Commercial driver's license, 4:43

Discrepancies, 4:20

Drug recognition expert, officer requesting test not qualified as, 4:41

Four hours of apprehension, test not offered within, 4:40

IMPLIED CONSENT AND ADMINISTRATIVE PER SE HEARINGS—Cont'd

Refusal of test—Cont'd

Police department authorized to request blood tests, officer requesting test not member of, **4:41**

Statutory or jurisdictional elements, disputes with respect to, **4:28**

Request by officer for test, test requested or not requested, 4:19

Res judicata, 4:7

Results of PBT not given to client, 4:35

Submission of client to preliminary breath test (PBT), 4:24

Subpoena

Generally, 4:3

Hearsay witness, 4:26

Subpoena for hearsay witness, need for, 4:26

Sworn certificate. **4:17**

Testimony of driver or witnesses, issues generated by

Generally, 4:26 to 4:38

Alibi, 4:38

Change of mind by driver within the limitation period, 4:32

Coercing of a decision by officer, 4:33

Cross-examination of hearsay witness, need for subpoena for, 4:26

Denial of driver's request to confer with counsel, 4:31

Dispute as to statutory or jurisdictional elements, generally, 4:27 to 4:38

Drinks consumed by driver after accident, 4:34

Failure to advise the licensee of the sanctions that shall be imposed, 4:29

Hearsay witness, need for subpoena for, 4:26

Insufficient breath, 4:30

Miranda confusion, 4:36

Misleading advice given by officer, **4:33**

Non refusal of test by driver, 4:28

Results of PBT not given to client, 4:35

Subpoena for hearsay witness, need for, 4:26

Wrong test offered, 4:37

Tolerance, 4:23

Transportation Article § 16 requirements not met, 4:24

Under 21 driver, **4:51**

Witnesses. See "Testimony of driver or witnesses, issues generated by" under this heading

Wrong test offered, 4:37

INDEPENDENT TEST

Defense cases, 10:6

Direct examination of state's witnesses, 7:44, 7:45

INFERENCE AGAINST STATE

Closing argument, 11:3

INITIAL CLIENT CONTACT AND CONSULTATION

Generally, **3:1 to 3:6**

Advising the client, **3:5**

INITIAL CLIENT CONTACT AND CONSULTATION—Cont'd

First phone call after arrest, 3:2

Initial client consultation in general, 3:3 to 3:5

Lawyer-client relationship, establishment of, generally, 3:1 to 3:6

Matters after getting retained, 3:6

Midnight phone call, 3:1

Obtaining information from client, 3:4

Post-retention matters, 3:6

INITIATION OF PROSECUTION

Pre trial motions. See index heading Preliminary (Pretrial) motions

INSUFFICIENCY OF PROOF

Closing argument, 11:8

INTERFERENCE BY STATE

Direct examination of state's witnesses, 7:46

INTERLOCUTORY APPEALS

Preliminary (pretrial) motions, 5:20

INTOX EC/IR II

Direct examination of state's witnesses, 7:49

Form, EC-IR and alcohol reference solution approval letters, App. C7

INTOXIMETER TECHNICIAN

Cross-examination, 8:9

IntoxNet REPORT

Form, App. C8

INVESTIGATION

Direct examination. See index heading DIRECT EXAMINATION OF STATE'S WITNESSES

JENCKS DISCOVERY

Cross-examination, 8:8

Preliminary (pretrial) motions, 5:10

JUDGMENT OF ACQUITTAL, MOTION FOR

Generally, 9:1 to 9:4

Circumstantial evidence, 9:2

Cleaning up extraneous charges, 9:4

Corroboration of corpus delicti, 9:3

JURISDICTION

Closing argument, 11:4

Direct examination of state's witnesses, 7:18

Federal DUIs, 15:1

Implied consent and administrative per se hearings, 4:16

JURY TRIALS

Appeals, **13:8**

Beginning of trial, 6:1

Closing argument. See index heading closing argument

JURY TRIALS—Cont'd

Preliminary (pretrial) motions, **5:27**, **5:28** Voir dire. See index heading VOIR DIRE

JUVENILE DUIS

Generally, 17:1 to 17:6

Adjudicatory hearings, 17:4

Charging process, 17:2

Consequences at the MVA, 17:6

Definitions, 17:1

Discovery, 17:3

Dispositions, 17:5

Merits or adjudicatory hearings, 17:4

Preliminary proceedings, 17:3

Purpose of juvenile law, 17:1

LANE CHANGING

Direct examination of state's witnesses, 7:6

LARRY POZNER

Cross-examination, 8:2

LAWYER-CLIENT RELATIONSHIP

Initial client contact and consultation, 3:1 to 3:6

LENGTH

Cross-examination, 8:6

LIFE-THREATENING INJURY

Offenses related to drunk driving, 1:13

LIMITATIONS AND RESTRICTIONS

Alcohol restrictions under 21, 2:3

MANSLAUGHTER

Vehicular manslaughter and criminally negligent manslaughter, 1:11

MARGIN OF ERROR

Implied consent and administrative per se hearings, 4:23

MARYLAND DISCOVERY RULES

Preliminary (pretrial) motions, **5:7**

MARYLAND RULE 5-702

Expert witnesses, 7:60

MARYLAND RULE 5-703

Expert witnesses, 7:61

MAXIMIZING PRIOR INCONSISTENT STATEMENTS

Cross-examination, 8:4

MEDICAL ADVISORY BOARD

Convictions at MVA, consequences of, 14:16

Implied consent and administrative per se hearings, 4:49, 4:53

MEDICAL DEFENSES

Defense cases, 10:7

MIDNIGHT PHONE CALL

Initial client contact and consultation, 3:1

MILITARY

Collateral consequences of DUI, members of the military, **16:5** Federal DUIs, offenses occurring on military bases, **15:2**

MINORS

See index heading CHILDREN OR MINORS

MIRANDA DOCTRINE

Direct examination of state's witnesses, 7:32 Implied consent and administrative per se hearings, 4:36

MISLEADING ADVICE

Implied consent and administrative per se hearings, 4:33

MISTAKE OF LAW BY OFFICER

Direct examination of state's witnesses, 7:21

MITIGATION

Convictions at MVA, consequences of, **14:11** Implied consent and administrative per se hearings, **4:44** Sentencing, **12:10**

MOTIONS

Acquittal, motion for judgment of

Generally, **9:1 to 9:4**

For detailed treatment see index heading JUDGMENT OF ACQUITTAL, MOTION FOR Appeals, 13:6

Pretrial motions. See index heading Preliminary (Pretrial) motions

MVA

Convictions at MVA, consequences of

Generally, **14:1 to 14:20**

For detailed treatment see index heading convictions at MVA, consequences of Implied consent. See index heading implied consent and administrative per se hearings

NATIONAL PARK SERVICE

Federal DUIs, 15:3

NECESSITY, DEFENSE OF

Closing argument, 11:5

NEGLIGENCE

Criminally negligent manslaughter, 1:11

NHTSA TRAINING MANUAL

Cross-examination, 8:11

NON DUI OR DWI OFFENSES

Convictions at MVA, consequences of, 14:6

NOTICE

Convictions at MVA, consequences of, 14:9

Implied consent and administrative per se hearings, 4:6

OBJECTIONS

Direct examination of state's witnesses, 7:2, 7:3, 7:31

OBSERVATIONS OF OTHERS

Defense cases, 10:3

ODOR OF ALCOHOL

Direct examination of state's witnesses, 7:15, 7:38

OFFENSES RELATED TO DRUNK DRIVING

Generally, 1:11 to 1:18

Assault, second degree, 1:18

Criminally negligent manslaughter, 1:11

Eluding, **1:16**

Fleeing and eluding, 1:16

Hit and run, 1:15

Homicide while DUI, 1:12

License, driving while suspended, revoked, or driving without, 1:17

Life-threatening injury, DWI involving, 1:13

Manslaughter, 1:11

Minors in the car, 1:14

Per se DUI, 1:12, 1:13

Revocation of license, driving while under, 1:17

Suspension of license, driving while under, 1:17

Threatening injury, DWI involving, 1:13

Vehicular manslaughter, 1:11

OFFICE OF ADMINISTRATIVE HEARINGS

Implied consent and administrative per se hearings, 4:1

ONE-LEG STAND

Direct examination of state's witnesses, 7:29

ON THE RECORD APPEALS

Appeals, 13:10

OPENING STATEMENT

Beginning of trial, 6:3

OPINION OF OFFICER

Direct examination of state's witnesses, 7:36

ORDERS OF COURT

Alcohol restriction, 4:52

OUT-OF-STATE CONVICTIONS

Convictions at MVA, consequences of, 14:4

OUTRAGEOUS GOVERNMENTAL CONDUCT

Closing argument, 11:6

PENALTIES OR SANCTIONS

MVA convictions. See index heading convictions at MVA, consequences of Sentencing, **12:1**

PETITION FOR WRIT OF CERTIORARI

Implied consent and administrative per se hearings, 4:56

PILOTS

Collateral consequences of DUI, 16:6

PLACE OF FILING OF CHARGES

Preliminary (pretrial) motions, 5:21

POINTS REVOCATION

Convictions at MVA, consequences of, 14:6

POLICE DEPARTMENT

Discovery in possession of police, 5:2

Implied consent and administrative per se hearings, 4:41

POSSESSION OF POLICE

Preliminary (pretrial) motions, 5:2

POST-RETENTION MATTERS

Initial client contact and consultation, 3:6

POST-SENTENCING MOTIONS

Sentencing, 12:12 to 12:14

PRELIMINARY BREATH TEST

Direct examination of state's witnesses, 7:30

Sentencing, 12:9

PRELIMINARY (PRETRIAL) MOTIONS

Generally, 5:1 to 5:28

Brady discovery, 5:8

Casper discovery, 5:9

Chemical Test for Alcohol Unit (CTAU), discovery from, 5:3

Circuit Court, jury trial, right to, 5:28

Collateral estoppel, 5:18

Computer source code, discovery of, 5:4

Continuance, motion for, 5:14

Destruction of evidence, 5:11

Discovery, generally, 5:1 to 5:10

Disjunctively, 5:23

District Court, jury trial, right to, 5:27

Double jeopardy motions

Generally, 5:15 to 5:20

Collateral estoppel, 5:18

Interlocutory appeals, 5:20

Multiple punishments, 5:17

Prior acquittal/conviction, 5:16

Res judicata, 5:19

PRELIMINARY (PRETRIAL) MOTIONS—Cont'd

Duplicity, 5:23

Failure to state offense, **5:22**

Initiation of prosecution, motions related to

Generally, 5:21 to 5:26

Disjunctively, 5:23

Duplicity, 5:23

Failure to state offense, 5:22

Service of process, 5:26

Statute of limitations, 5:25

Venue, 5:24

Where charges should be filed, 5:21

Interlocutory appeals, 5:20

Jencks discovery, 5:10

Jury trial, right to, 5:27, 5:28

Maryland discovery rules, 5:7

Object of discovery, 5:6

Place of filing of charges, 5:21

Possession of police, discovery in, 5:2

Prior acquittal/conviction, double jeopardy motions, 5:16

Procedural differences between state court and federal court, 15:7

Purpose of discovery, 5:5

Res judicata, 5:19

Service of process, 5:26

Speedy trial motions, 5:13, 5:14

Statute of limitations, 5:25

Subpoenas, 5:12

Toxicologist, discovery from, 5:3

Venue, **5:24**

Where charges should be filed, 5:21

PREPARING CROSS-EXAMINATION OF STATE'S WITNESSES

Cross-examination, 8:8, 8:9

PRETEXTUAL STOPS

Direct examination of state's witnesses, 7:19

PRETRIAL CONFERENCE

Appeals, **13:5**

PRETRIAL MOTIONS

See index heading PRELIMINARY (PRETRIAL) MOTIONS

PRIOR CONVICTIONS

Preliminary (pretrial) motions, 5:16

Sentencing, 1:10, 12:5

PROBABLE CAUSE FOR ARREST

Direct examination of state's witnesses, 7:37

PROBATION

Sentencing, 12:2

RECONSIDERATION OF EVIDENCE

Sentencing, 12:12

RECORDS

Implied consent and administrative per se hearings, 4:54

REFUSAL OF TEST

Direct examination of state's witnesses, 7:34, 7:43

Form, alcohol restriction form, App. C12

Implied consent and administrative per se hearings. See index heading IMPLIED CONSENT AND ADMINISTRATIVE PER SE HEARINGS

Sentencing enhancements, 1:9, 12:6

REINSTATEMENT

Convictions at MVA, consequences of, 14:15 to 14:18

REMAND

Appeals, 13:10

REQUEST BY OFFICER FOR TEST

Implied consent and administrative per se hearings, test requested or not requested, 4:19

RES JUDICATA

Implied consent and administrative per se hearings, **4:7** Preliminary (pretrial) motions, **5:19**

RESTITUTION

Sentencing, 12:4

RESTRICTIONS

Alcohol restrictions under 21, 2:3

Form, alcohol restriction form, App. C12

RESULT OF TEST FOR ALCOHOL CONCENTRATION

Form, App. C4

RETROGRADE EXTRAPOLATION

Expert witnesses, 7:62

REVOCATION OF LICENSE

Offenses related to drunk driving, 1:17

RIGHT TO COUNSEL

Direct examination of state's witnesses, 7:42

ROADBLOCKS

Direct examination of state's witnesses, 7:16

ROGER DODD

Cross-examination, 8:2

SEARCH INCIDENT TO ARREST

Direct examination of state's witnesses, 7:39

SECURITY CLEARANCES

Collateral consequences of DUI, 16:4

SENTENCING

Generally, 12:1 to 12:14

Appeal bond, motion for setting of, 12:13

Appeals, 13:9, 13:10

Constitutional rights, 12:11

Enhancements to sentencing, 1:9, 1:10, 12:5, 12:6

Ethical considerations, 12:8

Evidence at sentencing, 12:7 to 12:10

Expungement, 12:14

Federal DUIs, 15:11

Impermissible considerations at sentencing, 12:11

Merger, 12:3

Mitigation evidence, 12:10

Penalties for DUI, 12:1

Post-sentencing motions, 12:12 to 12:14

Preliminary breath test, 12:9

Prior convictions, enhancements to sentencing, 1:10, 12:5

Probation before judgment, 12:2

Procedural requirements for enhanced sentences, 12:7

Reconsideration of evidence, motion for, 12:12

Refusal of test, enhancements to sentencing due to, 1:9, 12:6

Restitution, 12:4

SERVICE OF PROCESS

Preliminary (pretrial) motions, 5:26

SIGNAL VIOLATIONS

Direct examination of state's witnesses, 7:11

SPEEDING

Direct examination of state's witnesses, 7:5

SPEEDY TRIAL MOTIONS

Preliminary (pretrial) motions, 5:13, 5:14

STANDARDIZED FIELD SOBRIETY TESTS

Direct examination of state's witnesses, 7:25 to 7:27

STATE'S EXPERT

Cross-examination, 8:13

STATUTE OF LIMITATIONS

Preliminary (pretrial) motions, 5:25

STAYS

Convictions at MVA, consequences of, 14:14

STRATEGIC CONSIDERATIONS

Defense cases, 10:1, 10:2

SUBPOENAS

Implied consent and administrative per se hearings. See index heading IMPLIED CONSENT AND ADMINISTRATIVE PER SE HEARINGS

Preliminary (pretrial) motions, 5:12

SUSPENSION OF LICENSE

Convictions at MVA, consequences of, **14:6**Direct examination of state's witnesses, **7:13**Example of Search continuous and order of examples of the state of th

Form, officer's certification and order of suspension, App. C5

Offenses related to drunk driving, 1:17

TESTIMONY

See index heading witnesses

THEME, SETTING THE

Beginning of trial, 6:3

THEORY AND TECHNIQUES

Cross-examination, 8:1 to 8:5

TIMING OF APPEAL

Federal DUIs, 15:12

TINTED WINDOWS

Initial stop, 7:10

TOLERANCE

Implied consent and administrative per se hearings, 4:23

TOXICOLOGIST

Preliminary (pretrial) motions, 5:3

TRANSPORTATION ARTICLE § 16 REQUIREMENTS

Implied consent and administrative per se hearings, 4:24

TRIAL

Federal DUIs, 15:8

UNDER AGE 21 DRIVERS

Administrative offenses for DUI, 2:3

Convictions at MVA, consequences of, 14:2

Implied consent and administrative per se hearings, 4:51

UNRESPONSIVE WITNESS

Cross-examination, 8:5

VEHICULAR MANSLAUGHTER

Offenses related to drunk driving, 1:11

VENUE

Closing argument, 11:4

Preliminary (pretrial) motions, 5:24

VIDEO RECORDINGS

Evidentiary issues, 7:65

VOIR DIRE

Beginning of trial, 6:2

Direct examination of state's witnesses, 7:58

VOLUNTARINESS

Direct examination of state's witnesses, 7:33

WAIVING JURY TRIAL

Beginning of trial, 6:1

WALK-AND-TURN

Direct examination of state's witnesses, 7:29

WARRANTS

Breath or blood test evidence, 7:40

WEEKEND PROGRAM POLICY

DUI education and weekend program policy clarification, App. C14

WINDOW OF CAR

Direct examination of state's witnesses, initial stop, 7:10, 7:22

WITNESSES

Cross-examination

Generally, **8:1 to 8:14**

For detailed treatment see index heading CROSS-EXAMINATION

Direct examination of state's witnesses

Generally, 7:1 to 7:64

For detailed treatment see index heading direct examination of state's witnesses Expert witnesses

Generally, 7:59 to 7:64

For detailed treatment see index heading EXPERT WITNESSES

Implied consent. See index heading implied consent and administrative per se hearings

WRONG TEST OFFERED

Implied consent and administrative per se hearings, 4:37